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Memorial in Behalf of Certain Cherokees

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Recommended Citation

S. Misc. Doc. No. 129, 50th Cong., 1st Sess. (1888)

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IN THE SENATE OF THE UNITED STATES.

JUNE 11, 1888.—Presented by Mr. Teller. Referred to the Committee on Indian Affairs and ordered to be printed.

MEMORIAL IN BEHALF OF CERTAIN CHEROKEE INDIANS.

To the Senate and the House of Representatives of the United States of America in Congress assembled :

The undersigned, in behalf of those Cherokee Indians formerly residing in North Carolina who have recently removed, at their own expense, to the Cherokee country in the Indian Territory, as their duly accredited agent for that purpose, respectfully represents :

That prior to the year A. D. 1884, there were about three hundred and fifty Cherokee Indians, hitherto known as the North Carolina Cherokees, who, in order to avail themselves of the future home provided for all the Cherokee Indians by the treaties with the United States of A. D. 1835 and 1846, in the Indian Territory west of the Mississippi River, availed themselves of the provisions of the eighth article of said treaty and removed to that country at their own expense.

That the eighth article of said treaty of 1835 provides for such removal of the Cherokee Indians as follows :

Such persons and families as, in the opinion of the emigrating agent, are capable of subsisting and removing themselves shall be permitted to do so; and they shall be allowed in full of all claims for the same twenty dollars for each member of their family; and in lieu of their one year's rations they shall be paid the sum of thirty-three dollars and thirty-three cents if they prefer it. (Rev. Ind. Treat., p. 70.)

That a large number of those Cherokees formerly residing east of the Mississippi River, who removed themselves to their country in the Indian Territory, and subsisted themselves for one year after their removal to their new homes, have heretofore made application to the Commissioner of Indian Affairs to be paid their commutation money for their said removal and subsistence provided for by said eighth article of said treaty, which has not as yet been paid to them.

Your memorialist heretofore submitted to the Commissioner of Indian Affairs the following communication in behalf of these claimants more than three years ago :

WASHINGTON, D. C., January 2, 1885.

SIR: Please find inclosed a list of claims of North Carolina Cherokees, who have removed from North Carolina to the Indian Territory, for the cost of their removal and subsistence, under the eighth article of the treaty of December 29, 1835.

The majority of these claims were filed in your office November 20, 1877, and the balance in March and April, 1878. The evidence in these cases is on file and they are ready for payment. I respectfully request that you call the attention of the Appropriation Committees of the Senate and House to these claims and recommend their early payment. The cost of removal and subsistence of a part of those who removed from North Carolina to the Indian Territory was paid out of the civilization fund,

which fund was subsequently re-imbursed by Congress, as I am informed, and justice and right calls for the payment of these claims which have been pending for many years. Many of the claimants are poor and needy, and I sincerely trust that you will again call the attention of Congress to their claims.

Very respectfully,

J. M. BRYAN,
Agent and Attorney of Claimants.

Hon. HIRAM PRICE,
Commissioner of Indian Affairs.

Whereupon the Commissioner, Hon. Hiram Price, communicated to the Secretary of the Interior the following report and recommendation for the payment of these claimants:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 6, 1885.

SIR: I have the honor to submit herewith a copy of a communication, dated Washington, D. C., January 2, 1885, from J. M. Bryan, agent and attorney for Cherokees, requesting that the attention of the Appropriation Committees of the House and Senate be invited to the claims of certain Cherokees, in order to secure for them the removal and subsistence money they are entitled to receive under the provisions of the treaties of 1835, 1836, 1846, and an act of Congress approved July 29, 1848 (9 Stats., p. 264).

By the eighth article of the New Echota treaty of December 29, 1835, with the Cherokees (7 Stats., p. 482), the United States agreed to remove these Indians west, the price for removal being fixed at \$20, and one year's subsistence at \$32.33 for each of such persons, who might prefer to remove themselves.

By the third article of the supplementary treaty of March 1, 1836 (7 Stats., p. 488), the sum of \$600,000 was allowed to the Cherokees, in lieu of all claims of every nature and description against the United States, including the expenses of their removal.

By the eleventh article of the treaty of August 6, 1846 (9 Stats., p. 873), the question whether the amount expended for the one year's subsistence should be paid out of Government or Cherokee funds was submitted to the Senate for decision, as also the question, if the Cherokees were to pay, whether the subsistence should be charged at a greater rate than \$33.33 per head.

The fourth section of the act of July 29, 1848 (9 Stats., 264), directed the Secretary of War to ascertain the number of Indians remaining at the ratification of the New Echota treaty (May 23, 1836), and the Secretary of the Treasury to set apart a sum equal to \$53.33 for each individual reported by the Secretary of War, upon which interest was to be paid at 6 per cent. per annum, on such per capita.

The fifth section provided for the payment of the \$53.33 for the removal and subsistence of such individual members as might thereafter desire to remove, upon their removal west, which amount was to be charged to the general Cherokee fund, and re-imbursed therefrom.

This fund, under the act of March 3, 1875 (18 Stats., 447), was applied for the education, improvement, and civilization of these Indians, after certain specific acts and payments had been effected, and, under the act of August 15, 1876 (19 Stats., 197), the balance of this fund, after certain payments therefrom, was placed to their credit upon the books of the Treasury Department, to bear interest at 5 per cent. per annum; and the Secretary of the Interior is authorized to use annually, for agricultural implements and for educational purposes among said Indians, so much of the principal of said fund as with the interest annually accruing thereon shall amount to \$6,000.

In view of the fact that Congress has determined the uses to which this fund must be applied, and the Indians are without means for their removal, I am of the opinion that Congress should furnish the necessary means to enable the Department to effect their removal as stipulated in the eighth article of their treaty of 1835.

I therefore respectfully recommend that Congress be requested to appropriate, out of any moneys in the Treasury of the United States not otherwise appropriated, the sum of \$20,000, or so much thereof as may be necessary, to pay the cost of the removal and subsistence of those members of the tribe who have removed, as well as those who may hereafter desire to remove, at the rate of \$53.33 per head.

I inclose herewith a draught of an amendment to be incorporated in the deficiency or sundry civil bill hereafter to be acted upon by Congress.

Very respectfully,

H. PRICE,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

ESTIMATE.

For this amount, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Interior, for the removal and subsistence expenses of those members of the Eastern Band of Cherokees who have removed, as well as for those who may hereafter desire to remove, to the Cherokee country, Indian Territory, at the rate of \$53.33 per head: *Provided*, That the sum of \$2,930.50, expended for the removal of one hundred and sixty-one members of said band in 1881, be deducted per capita from the \$53.33 for each individual, being the amount specified in the eighth article of the treaty of December 29, 1835, \$20,000.

This recommendation was transmitted by Secretary Teller, through the President, to Congress on February 7, 1885. (House Ex. Doc. No. 208, second session, Forty-eighth Congress.)

Your memorialist afterwards, in January, 1886, addressed the following communication to the present Commissioner of Indian Affairs :

WASHINGTON, D. C., January 20, 1886.

SIR: I respectfully beg leave to call your attention to a claim of North Carolina Cherokees, who removed from North Carolina to the Cherokee Nation, Indian Territory, about ten years ago.

The list of these claimants that I am representing is on file in the Indian Department, and every claim fully proven, as to number of persons and date of removal.

The claim is for their removal and subsistence for one year.

Under Cherokee treaty of 1846 provision is made that on all moneys due the Cherokees the United States Government agrees to pay 5 per cent. interest from the 12th of June, 1838.

Therefore we think it reasonable and just that these claimants should receive interest on the several sums due them from the date of their removal west, as it was their own funds placed in the hands of the United States Government for this special purpose, and to draw interest at the rate of 6 per cent. per annum.

It has been near nine years since these claims have been presented to the Government for payment.

I also submit a report from the Interior Department, dated February 10, 1885, for your information, on these claims, and I respectfully ask that you will have their money appropriated and paid.

Very respectfully,

J. M. BRYAN,
For Claimants.

HON. J. D. C. ATKINS,
Commissioner Indian Affairs.

Thereupon Commissioner Atkins made and submitted to Secretary Lamar the following report and recommendation in respect to these payments :

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 20, 1886.

SIR: I have the honor to submit herewith a copy of a communication, dated Washington, D. C., January 20, 1886, from J. M. Bryan, attorney, inviting attention to certain claims of North Carolina Cherokees for removal and subsistence money they are entitled to receive under the provisions of the treaties of 1835, 1836, 1846, and an act of Congress approved July 29, 1848 (9 Stats., p. 264).

By the eighth article of the New Echota treaty of December 29, 1835, with the Cherokees (7 Stats., p. 482), the United States agreed to remove these Indians west, the price for removal being fixed at \$20 and one year's subsistence at \$23.33 for each of such persons who might prefer to remove themselves.

By the third article of the supplementary treaty of March 1, 1836 (7 Stats., p. 488), the sum of \$600,000 was allowed to the Cherokees in lieu of all claims of every nature and description against the United States, including the expenses of their removal.

By the eleventh article of the treaty of August 6, 1846 (9 Stats., p. 873), the question whether the amount expended for the one year's subsistence should be paid out of Government or Cherokee funds was submitted to the Senate for decision, as also the question if the Cherokees were to pay, whether the subsistence should be charged at a greater rate than \$33.33 per head.

The fourth section of the act of July 29, 1848 (9 Stats., 264), directed the Secretary of War to ascertain the number of Indians remaining at the ratification of the New Echota treaty, May 23, 1836, and the Secretary of the Treasury to set apart a sum equal to \$53.33 for each individual reported by the Secretary of War, upon which interest was to be paid at 6 per cent. per annum on such per capita.

The fifth section provided for the payment of the \$53.33 for the removal and subsistence of such individual members as might thereafter desire to remove upon their removal west, which amount was to be charged to the general Cherokee fund and reimbursed therefrom.

This fund, under the act of March 3, 1875 (18 Stats., 447), was applied for the education, improvement, and civilization of these Indians, after certain specific acts and payments had been effected, and under the act of August 15, 1876 (19 Stats., 197), the balance of this fund, after certain payments therefrom, was placed to their credit upon the books of the Treasury Department, to bear interest at 5 per cent. per annum, and the Secretary of the Interior is authorized to use annually, for agricultural implements and for educational purposes among said Indians, so much of the principal of said fund as, with the interest annually accumulating thereon, shall amount to \$6,000.

In view of the fact that Congress has determined the uses to which this fund must be applied, and the Indians are without means for their removal, I am of the opinion that Congress should furnish the necessary means to enable the Department to effect their removal, as stipulated in the eighth article of their treaty of 1835.

I therefore respectfully recommend that Congress be requested to appropriate, out of any moneys in the Treasury of the United States not otherwise appropriated, the sum of \$20,000, or so much thereof as may be necessary to pay the cost of the removal and subsistence of those members of the tribe who have removed, as well as those who may now or hereafter desire to remove, at the rate of \$53.33 per head.

I inclose herewith a draught of a bill covering the amount required to carry out the objects specified.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

A BILL for the removal of the Eastern Cherokee Indians to the Indian Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the amount necessary to pay for the removal and subsistence of those members of the Eastern band of Cherokees who have removed themselves, as well as those who may now or hereafter desire to remove to the Cherokee Nation, in the Indian Territory, at the rate of fifty-three dollars and thirty-three cents per head, being the amount specified in the eighth article of the Cherokee treaty of December twenty-ninth, eighteen hundred and thirty-five, and the act of Congress approved July twenty-ninth, eighteen hundred and forty-eight, there is hereby appropriated the sum of twenty thousand dollars, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Interior.

This report and recommendation was transmitted to Congress by Secretary Lamar February 25, 1886 (Sen. Ex. Doc. No. 84, 1st Sess. 49th Congress).

Your memorialist further represents that many of these Cherokees removed as far back as A. D. 1871 and 1872; they have, therefore, been kept out of their money expended by them respectively in their removal and subsistence all this time, although their applications asking to be paid this commutation money have been on file for several years with the Commissioner of Indian Affairs with the result aforesaid.

Your memorialist also represents that he is informed and believes that, as the payments asked for by these Indians are provided for by the treaty stipulation aforesaid, an appropriation therefore is authorized by law.

Wherefore, in their behalf as their agent and attorney, your memorialist prays that, for the purpose of paying for the removal and subsistence expenses of those members of the Eastern band of Cherokees

who have removed, as well as for those who may desire to remove to the Cherokee country, Indian Territory, at the rate of \$53.33 per head, there be inserted a clause in some appropriate appropriation bill at the present session of Congress, appropriating the sum of \$20,000, or so much thereof as may be necessary for that purpose, to be expended under the direction of the Secretary of the Interior, as in duty bound he will ever pray.

J. M. BRYAN,
Agent and Attorney for Claimants.

S. Mis. 129—2